

REMARKS

Introductory Comments:

Claims 4-6, 8, 10-16, 21 and 33-44 were examined in the Office Action under reply and stand variously rejected under (1) 35 U.S.C. §112, second paragraph; (2) 35 U.S.C. §112, first paragraph; (3) 35 U.S.C. §102(b); and (4) 35 U.S.C. §103(a). These rejections are respectfully traversed as discussed more fully below.

Applicants note with appreciation the withdrawal of the previous objections to the specification, the withdrawal of the previous rejections under 35 U.S.C. §112, second paragraph stated in paragraphs 10(a), 10(c) and 10(e)-10(h) of the Office Action dated August 1, 2003, as well as the withdrawal of the previous rejections under 35 U.S.C. §102(b) over Peeters and Jennings.

Overview of the Above Amendments:

Claims 4, 8, 10-12 and 21 have been cancelled herein and claims 5, 6, 13-16 and 33-40 amended to recite the invention with greater particularity. In particular, claim 5 has been rewritten in independent format and has been amended to spell out HA and MT at their first occurrences. Support for these amendments can be found by reference to Falugi et al., *Eur. J. Immunol.* (2001) 31:3816-3824 ("Falugi), cited by the Examiner, in combination with Table 1 presented at page 36 of the present specification. In particular, Table 1 of the present application specifies sequences for epitopes HA and MT. Table 1 of Falugi shows the same epitopes for HA and MT and explains the origin of HA and MT.

Additionally, claims 5 and 6 have been amended to replace the term "PfCs" with "PFT3" to keep the terminology consistent with that used throughout the present application. These terms are synonyms as shown by a comparison of the epitope PFT3 presented in Table 1 of the present application and the epitope PfCs shown in Table 1 of Falugi. Claims 14-16 have been amended to depend from claim 37 rather than cancelled claim 11. Finally, claims 33-40 have been amended for antecedent basis purposes as suggested by the Examiner.

Cancellation of claims 4, 8, 10-12 and 21, and amendment of claims 5, 6, 13-16 and 33-40 is made without prejudice, without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicants expressly reserve the right to file one or more continuing applications hereof containing the canceled or unamended claims.

The foregoing amendments are believed to place the application in condition for allowance and do not present new issues that would require an additional search. Accordingly, entry thereof is respectfully solicited.

Rejections Under 35 U.S.C. §112, Second Paragraph:

Claims 4-6, 8 and 10-16 remain rejected under 35 U.S.C. §112, second paragraph, as indefinite for use of the abbreviations “MT” and “HA.” As explained above, these abbreviations have been spelled out at their first occurrences. Thus, this basis for rejection has been overcome.

Claims 33-40, 43 and 44 were rejected as lacking proper antecedence. The Examiner suggests replacing the term “a carrier protein” with “the carrier protein.” Applicants have so done. Thus, this basis for rejection has also been overcome.

Withdrawal of the bases for rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

Rejection Under 35 U.S.C. §112, First Paragraph:

Claim 4 was rejected under 35 U.S.C. §112, first paragraph as including new matter. Although applicants respectfully disagree, claim 4 has been cancelled, rendering this rejection moot. Withdrawal of this basis for rejection is therefore respectfully requested.

Rejections Over the Art:

Claims 4, 8, 10 and 21 were rejected under 35 U.S.C. §102(b) as anticipated by EPA 0 270 295 to Brown et al. (“Brown”) as evidenced by Falugi et al., *Eur. J. Immunol.*

(2001) 31:3816-3824 ("Falugi"). Additionally, claims 4 and 11-16 were rejected under 35 U.S.C. §103(a) as unpatentable over Jennings et al., In *Seminars in Infectious Disease* (1982) Chapter 34, pp247-253 ("Jennings") or U.S. Patent No. 5,651,971 to Lees ("Lees") as evidenced by Falugi in view of Brown and U.S. Patent No. 5,728,385 to Classen et al. ("Classen"). Applicants do not agree that the cited art anticipates or renders obvious the claimed invention. Nevertheless, solely in an effort to advance prosecution, all of the claims either directly or ultimately depend from claim 5, which was not subject to any art rejections. Thus, the above bases for rejection no longer apply and withdrawal thereof is respectfully requested.

CONCLUSION

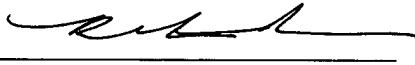
Applicants respectfully submit that the claims define a patentable invention. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Please direct all further written communications in this application to:

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Respectfully submitted,

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